



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF MULTIFAMILY HOUSING ASSISTANCE RESTRUCTURING

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MEMORANDUM FOR: Participating Administrative Entities and All
OMHAR Staff

FROM: S. Paige Warren, Deputy Director for Production, OMHAR

SUBJECT: OMHAR Lead-Based Paint Administrative Procedures

Overview: This memorandum provides guidance to PAEs and OMHAR staff on complying with HUD's Lead-Based Paint requirements. These requirements impact properties built prior to 1978 and are now a necessary element of due diligence and underwriting M2M restructurings. The lead-based paint evaluation must begin at the outset of M2M restructuring, simultaneous with all other due diligence. OMHAR also recognizes that properties are in all stages of restructuring, including those pending closing, and this guidance has been designed accordingly.

Introduction: OMHAR worked with the Office of Multifamily Housing and Office of Healthy Homes and Lead Hazard Control to develop procedures that ensure compliance with HUD's requirements.

The attached flowchart details the processes PAEs must follow to ensure Lead-Based Paint issues are addressed during the restructuring process. The process should result in the property being in compliance with HUD's Lead-Based Paint Regulations at closing and also having sufficient financial resources to remain in compliance in the future.

The flowchart refers to the lead-based paint regulations at several points. The full text of the regulations, 24 CFR 35, is at www.hud.gov/lea/1012text.doc.

Process Highlights: The following are significant points brought out in the flowchart:

- The PAE should determine early on in the restructuring process if the property is subject to the lead-based paint regulations. In effect, it is now part of the due diligence process.

If the property is subject to the lead regulation, what has the owner done to date to comply?

- If the owner has ordered a HUD no-cost inspection, OMHAR will work with all parties to expedite a report at no cost to the owner.
- PAEs will be required to review all reports. Guidance for report review will be posted on OMHAR's website
- PAEs (or third parties) will be required to review owner's O&M plans/Interim Controls to ensure the conditions noted in the Risk Assessment are satisfactorily addressed.
- State regulations may be more stringent than the Federal rule. The more stringent requirements must be followed. HUD (REAC)-ordered Risk Assessments reference State requirements; the PAE will have to understand the State or local requirements by working with the State or local Lead Office for the property location (See "Resources" below for how to identify your State lead contact.)
- PAE staff who perform site inspections are strongly recommended to take the web-based course on Visual Assessments (see "Resources" below).
- If the property is found to be in non-compliance with the Lead Safe Housing Rule, the Multifamily Program Manager in the HUB/PC will be notified.
- The PAE should also include in the ongoing property expenses funds to institute/maintain lead-safe work practices and clearance examinations for all but the smallest projects involving lead-based paint. This is discussed further in the following section.

LEAD-BASED PAINT (LBP) RELATED EXPENSES IN A RESTRUCTURING PLAN

For properties with a completed Lead-Based Paint Inspection or Risk Assessment which discloses the presence of lead-based paint or lead-based paint hazards, PAEs should work with the owner to ensure that adequate expenses are included in the Restructuring Plan to institute/continue lead-safe maintenance practices. The reserve for replacement account (and rehab escrow) should also be adjusted, as necessary, based on the results of the Risk Assessment. The impact will generally be modest, with the exception of properties located in a state that requires more stringent requirements such as certification of interim controls workers and/or firms.

Clearance Examinations are required **anytime** ongoing maintenance or repair work requiring lead-safe work practices is completed. Examples include: treating peeling or chipping paint, replacing windows, remodeling, or treating windows that

cause lead dust. A Clearance Examination will be required for each unit treated except when all units are treated. In that case, the Clearance Examination can follow the original sampling guideline. Funds should be included in the replacement reserve account for this purpose. It is recommended that PAEs estimate the budget at \$200 per unit treated.

If the flow chart indicates that processing is recommended without completion of a risk assessment first, the PAE must include an estimate for: (1) the Risk Assessment, (2) possible interim controls, and (3) clearance examinations. For the Risk Assessment only, PAEs may budget \$400 per sampled unit. PAEs are encouraged to contact local testing companies to further refine this guideline, as well as the \$200 guideline for a Clearance Examination. OMHAR recognizes that the guidelines are only estimates, and should be refined by consulting local lead professionals. (See Resources for the Lead Listing.)

Reporting Requirements: The M2M MIS Closing Module will be updated shortly with four (4) new fields:

1. Risk Assessment/Inspection Completed: Y N N/A
(post1977)
2. If Yes, date received by owner:
3. LBP Exists: Y N N/A
4. LBP Hazard: Y N N/A

This information will be shared with the Office of Multifamily Housing, which will update REMS.

Resources: The following resources are recommended for your review:

1. Visual Assessments Web-based Course
For online training on completing Visual Assessments, go to: www.hud.gov/lea/training/visualassessment/h00100.htm. The course takes about an hour, and will be extremely beneficial in determining if properties built between 1959 and 1978 can close without a Risk Assessment being completed before closing. In addition, the course helps prepare the PAE to review the owner's plans for addressing lead-based paint.
2. National Lead Information Center ("Lead Clearinghouse," NLIC) www.epa.gov/lead/nlic.htm, or call 1-800-424-LEAD.
For information about lead hazards and their prevention for the general public and professionals. Contact them to receive a general information packet, to order other documents, or for detailed information or questions.
3. For Questions on specific lead-technical issues contact the Lead Paint Compliance Assistance Center at 1-866-HUD-

1012. For questions on the Lead Safe Housing Rule requirements, Contact the HUD Lead Hotline at 202-755-1785, extension 104; or Lead_Regulations@hud.gov.

4. For Lead-Based Paint guidance and information on this subject, including future guidance currently under development and a link to OHHLHC's web site, go to the OMHAR website at:
www.hud.gov/offices/omhar/readingrm/envIRON.cfm
5. For a list of EPA Regional Lead Coordinators, go to the National Lead Information Clearinghouse's web page at www.epa.gov/opptintr/lead/leadoffl.htm. These coordinators can identify the state lead contacts.
6. For lead inspectors, risk assessors, lead-safe workers, and training providers who have agreed to be listed, go to the Lead Listing's web site at www.leadlisting.org or call 1-888-LEADLIST.

Please contact Norman Dailey (202-708-3856, extension 3786, or Norman_Dailey@hud.gov) if you have any questions about this memorandum.

Attachment